

SBA PROGRAM AND AUTHORIZATION AMENDMENTS

MAY 14, 1987.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LAFALCE, from the Committee on Small Business,
submitted the following

REPORT

[To accompany H.R. 2166]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 2166) to amend the Small Business Act and the Small Business Investment Act of 1958, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

THE PURPOSE OF THE BILL

The purpose of H.R. 2166 is to make minor amendments, without any net increase in budget authority, to SBA program levels and authorizations. These changes were requested by the Administration in its 1988 Budget Request and are as follows:

First, to increase the authorized program level in the Surety Bond Guarantees Program; second, to require that all debentures issued by development companies and guaranteed by SBA be sold to private investors rather than to the Federal Financing Bank (FFB); and third, to authorize an appropriation for the pollution control contract guarantees program in order to pay losses on guarantees previously issued.

INTRODUCTION AND BACKGROUND

The Committee conducted hearings on the budget for the Small Business Administration on February 26, March 4, and March 5, 1987. Testimony was received from the SBA and from representatives of small business associations. These hearings included a review of all SBA programs, their authorization and program levels

as previously enacted for fiscal year 1987 and 1988 by P.L. 99-272, and the Administration's budget request for fiscal year 1988.

On April 23, 1987, the bill (H.R. 2166) was introduced by Representative LaFalce to make those changes in SBA's program levels and authorization levels as were deemed non-controversial and which were included in the Administration's budget request.

The bill was referred to the Committee, and was marked up on May 12, 1987, and ordered favorably reported, without amendment, by a recorded vote of 40 ayes and 1 nay.

THE NEED FOR THE LEGISLATION

(A) DEVELOPMENT COMPANIES

Development companies are formed by local citizens, either on a profit or non-profit basis, with the primary purpose of improving their community's economy. They assist in the planned economic growth of the community by promoting and assisting the development of small business concerns in the area. If approved by SBA as meeting the statutory criteria and need, these concerns are eligible to receive and pass on to small business concerns financial assistance through the Small Business Administration.

This financial assistance may be in the form of loan guarantees or debentures guarantees. The SBA is authorized to guarantee loans of up to \$500,000 to development companies for projects to acquire land and construct a new plant, purchase necessary machinery and equipment, or acquire, expand, or convert an existing plant, for the benefit of a specific identifiable small business.

As an alternative, some development companies, upon application, are approved by SBA as certified development companies and are authorized to operate in a defined geographic area up to and including state-wide. These certified development companies may issue debentures, the repayment of principal and interest on which is guaranteed by SBA. The proceeds of the debentures are then lent to small businesses, again to finance plant acquisition, construction, conversion or expansion, including the acquisition of land. Generally, these debentures, which are limited to \$500,000 per small business assisted, are secured by a second mortgage and provide long term, fixed interest rate financing. Not more than 50 percent of the cost of a project by a small business concern can be financed with certified development company funds, but generally the financing package includes 50 percent funding from a commercial lender, 40 percent from the development company, and 10 percent from the small business concern assisted or from some other source.

P.L. 99-272 authorized SBA, in the aggregate, to guarantee bank loans to development companies and/or guarantee debentures issued by certified development companies in a maximum amount of \$400 million in fiscal year 1986, \$450 million in 1987, and \$450 million in fiscal year 1988. Since all of the debentures issued by the certified development companies, and guaranteed by the SBA, are sold to the Federal Financing Bank, each dollar of guaranteed debentures results in a dollar in Federal outlays. In order to reduce these federal outlays, the same law authorized the commencement

of a pilot program under which some of these debentures would be sold to private investors rather than to the FFB.

Due to the nature of the certified development company program, however, there is approximately a 1-year delay between obligation of the funds and the time that the debentures are actually sold. When the project is approved, SBA obligates itself to approve the debenture and that constitutes budget authority; however, the actual construction or purchase of equipment is financed through interim financing and only upon its completion are the debentures actually issued and the proceeds used to take out the construction financing. Thus, although the pilot program for private sales commenced in fiscal year 1986, the debentures were not issued and sold until fiscal year 1987. From November of 1986 through April of 1987, a total of \$68 million in guaranteed debentures were sold to private investors as is shown on the following chart.

504 PILOT PROGRAM SALES

[Dollars in millions]

Date	Amount sold	Interest rate (percent)
November 1986	\$7.08	8.75
December 1986	14.717	8.45
January 1987	6.041	8.45
February 1987	10.784	8.4
March 1987	14.254	8.20
April 1987	3.156	8.2
(20 years)	¹ 12.020	8.7
Total	68.0	

¹ Except for this amount, all sales were for 10-year terms.

Naturally, additional debentures will be sold to private investors and some of these will relate back to projects approved during fiscal year 1986.

These preliminary data indicate that the private sales, with interest rates approximately 1 percent above those which would have accrued had the sale been to the FFB, are acceptable. In order not to interrupt the orderly test under this pilot program, however, it is necessary to extend the pilot program and provide that all sales occurring as a result of projects approved during fiscal year 1987 and 1988 be shifted to the private market place and sold to private investors.

(B) POLLUTION CONTROL GUARANTEE FINANCING

The Small Business Administration, in cooperation with commercial banks and State agencies, helps small business obtain long term and low interest rate financing for required pollution control facilities. SBA is authorized to guarantee payments due under qualified contracts with respect to the planning, design, financing, or installation of pollution control facilities.

Small business, because of their generally limited credit history and the smaller size of their financing requirements, are often unable to obtain long term, low interest rate financing through revenue bonds. The high costs and nonproductive nature of re-

quired pollution control facilities are often more than small businesses can be expected to handle. SBA, commercial banks, and State authorities make long-term, low interest financing available to well established larger small businesses in much the same manner as corporate giants obtain financing for pollution facilities: through sale of pollution control revenue bonds issued by a State or municipal authority. This is made possible through SBA's guarantee of the small concern's obligation.

The contract may not exceed 30-years and the amount of the financing to be guaranteed may not exceed \$5 million. The cost of the program to the small business being assisted is a guarantee fee of 3½ percent of the amount of the payments, plus administrative fees.

Since inception of the program, SBA has approved the following amounts of guarantees on an annual basis:

Pollution control guarantees

[In millions of dollars]

<i>Fiscal year:</i>	<i>Amount</i>
1980	99
1981	100
1982	51
1983	8
1984	11
1985	7
1986	26
1987 (Appropriate level)	75

As can be seen from the above table, there has been considerable fluctuation in the annual level. This is primarily attributable to the controversy over the issuance of tax exempt revenue bonds, particularly in connection with a government guarantee of a related contract. At the present time, however, all of the guarantees being approved are taxable issues, and the question of tax exempts is no longer involved.

Claims are being made, however, on guarantees previously issued and it is necessary to authorize the appropriation of \$16 million during 1988 to pay these claims.

(C) SURETY BOND GUARANTEE PROGRAM

Small business contractors and subcontractors who seek public (and some private) construction jobs are often required to furnish surety bonds. Because of surety industry underwriting standards and other circumstances, many small contractors are unable to obtain such bonding and are thereby precluded from participating in the very projects which would help them develop capability to obtain necessary bonding. SBA can help a small concern break out of this cycle by extending a guarantee to a surety against losses in order to make bonding more easily available. Guarantees can be approved on bid, payment or performance bonds.

In addition to helping small business concerns, the surety bond program encourages competition in the bidding process which results in significant savings to the Government and taxpayers in final contract prices. Although most SBA surety bond guarantees are written for construction and related contracts, the program

also is available for qualified small concerns requiring bonding on contracts for goods and services.

Under current regulations, the guarantee may be for up to 80 percent of any losses on qualified contracts of up to \$1,250,000.

The surety company pays SBA a guarantee fee of 20 percent of its bond premium, and the small business contractor or subcontractor pays SBA a guarantee fee of 0.6 percent of the contract price.

The maximum bond premium which a surety may charge a small concern for an SBA-guaranteed surety bond is 1.8 percent of the contract price or bond amount, whichever is greater.

Usage of this program in recent years has been as follows:

Surety bond guarantees

[In millions of dollars]

Fiscal year:	Amount
1980	\$1,534
1981	1,382
1982	764
1983	567
1984	571
1985	951
1986	1,044
1987 (Appropriated level)	1,096

P.L. 99-272 set the maximum authorized program level for surety bond guarantees for fiscal years 1986, 1987, and 1988, at \$1,050 million, \$1,096 million, and \$1,142 million, respectively.

The Administration's budget request for fiscal year 1988 requested a program level of \$1,250 million, or \$108 million more than is authorized. This, however, is a program level increase and does not amount to an expense of an equivalent amount. Most of the contracts will be fully performed, and thus there will be no claim made against the SBA guarantee. In only about 2 percent of the cases does the small business default, resulting in a gross cost of this program of about \$2 million.

It is also noted that even this additional cost of \$2 million can be accommodated under the existing authorization of \$13 million which was previously authorized to provide monies to pay claims against the guarantees.

WHAT THE BILL WOULD DO

(A) DEVELOPMENT COMPANY PROGRAM

H.R. 2166 would provide that for 1987 of the \$450 million previously authorized for guarantees of debentures issued by development companies and for guaranteed loans to development companies, up to \$425 that would be in the form of debentures sold to private investors rather than to the Federal Financing Bank (FFB); however, since only \$373 million in these financings were approved in the 1987 Appropriations Act and since some sales to private investors had already been authorized, your Committee estimates that this will result in only some \$35 to \$40 million in debentures being sold to private investors rather than to the FFB. This shift will actually result in a reduction in Federal outlays of an equivalent amount and will appear as savings the next fiscal year.

The bill also would provide that for 1988 of the \$450 million previously authorized for guarantees of debentures issued by development companies and for guaranteed loans to development companies, up to \$425 million would be in the form of debentures sold to private investors rather than to the FFB. Since no private sales were previously authorized for fiscal year 1988, this will result in a reduction in Federal outlays on a dollar-for-dollar basis equal to the amount of the private sales, but the reduction will not appear until 1989.

(B) POLLUTION CONTROL GUARANTEES PROGRAM

H.R. 2166 would authorize the appropriation of \$16 million in fiscal year 1988 to pay claims on prior guarantees issued by SBA under its pollution control contract guarantees program. This increase in budget authority, however, would be offset by an equivalent reduction in the budget authority for SBA's revolving loan program account. The reduction in that account is possible due to lower loan losses than originally estimated.

(C) SURETY BOND GUARANTEE PROGRAM

Finally, H.R. 2166 would increase the authorized program level for surety bond guarantees during 1988 from \$1.142 billion dollars to \$1.250 billion, an increase of \$108 million. The bill would not, however, provide any increase in budget authority in this account as the \$13 million previously authorized should be sufficient to pay claims on the entire program authorized for 1988, including the increase provided in this bill.

CONCLUSION

This bill merely fine-tunes SBA's budget. It shifts funds among accounts and increases certain program levels but does not involve any additional budget authority. In fact, the minor changes made by this bill will actually result in a reduction in outlays during fiscal years 1988 and future years. It will provide assistance to small businesses which in turn will benefit our economy. The bill should be enacted without delay.

MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with clause 2(1)(2) of rule XI of the House of Representatives, the following statement is made relative to the vote on the motion to report H.R. 2166.

A majority of the Committee voted in person and was actually present and the motion was approved by a recorded vote of 40 ayes and 1 nay.

In compliance with clause 2(1)(3) of the rule XI of the Rules of the House of Representatives, the following statements are made:

With regard to subdivision (A), relating to oversight findings, the Committee finds, in keeping with clause 2(b)(1) of rule X, that this legislation is in full compliance with the provision of this rule of the House which states:

In addition each such committee shall review and study any conditions or circumstances which may indicate the

necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee. * * *

With regard to subdivision (B), relating to the statement required by section 308(a) of the Congressional Budget and Impoundment Control Act of 1974, the following statement is made relative to the legislation:

Section 3(3) of the Congressional Budget Act defines the term "tax expenditures" as those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability.

None of the provisions of H.R. 2166 deals with taxation and thus, in your Committee's opinion, this bill does not provide new or increased tax expenditures.

Section 3(2) of the Congressional Budget Act defines the term "budget authority" as authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds or to collect off-setting receipts.

Section 3(10) of such Act defines "credit authority" as authority to incur direct loan obligations or to incur primary loan guarantee commitments.

Under these definitions, it is the final action of Congress that authorizes an agency to enter into obligations which constitutes new budget authority or new credit authority. In those cases which entail (1) an authorization for an agency to undertake a program or enter guarantees; (2) an authorization for appropriation of funds to permit that agency to enter into obligations; and (3) an actual appropriation of such funds, it would be only the final action of Congress in appropriating funds which constitutes the budget authority or the credit authority.

None of the provisions of H.R. 2166 appropriates funds and thus, in your Committee's opinion, the bill does not provide new budget authority or new credit authority.

With regard to subdivisions (C) and (D), the estimate and comparison of the Director of the Congressional Budget Office relative to H.R. 2166 follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 13, 1987.

Hon. JOHN LaFALCE,
Chairman, Committee on Small Business,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 2166, a bill to amend the Small Business Act and the Small Business Investment Act of 1958.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2166.
2. Bill title: A bill to amend the Small Business Act and the Small Business Investment Act of 1958.
3. Bill status: As ordered reported by the House Committee on Small Business, May 12, 1987.
4. Bill purpose: H.R. 2166 would make a number of changes in the authorization levels for the surety bond, pollution control and development company programs of the Small Business Administration (SBA).
5. Estimated cost to the Federal Government: The overall budget impact of this bill—including both direct spending effects and items requiring appropriation action—is summarized in the following table.

(By fiscal year, in millions of dollars)

	1987	1988	1989	1990	1991	1992
Bill total:						
Estimated budget authority/authorization level	-43	-422	19	33	33	32
Estimated outlays		-28	-398	47	46	45

The direct spending effects of H.R. 2166 are shown in the next table. they would result from reductions in financing of SBA development company loans by the Federal Financing Bank (FFB) in the current fiscal year.

(By fiscal year, in millions of dollars)

	1987	1988	1989	1990	1991	1992
Direct spending:						
Function 370:						
Estimated budget authority (authority to borrow)	-43					
Estimated outlays		-43	1	1	1	1
Function 900: Interest to the Treasury:						
Estimated budget authority		2	3	3	3	3
Estimated outlays		2	3	3	3	3
Total direct spending:						
Estimated budget authority	-43	2	3	3	3	3
Estimated outlays		-41	4	4	4	4

Specified authorizations in this bill would result in the following budget impact relative to current law, assuming appropriation of the necessary guarantee authority and program funding.

(By fiscal year, in millions of dollars)

	1987	1988	1989	1990	1991	1992
Authorizations:						
Function 370:						
Estimated authorization level	-424					
Estimated outlays		13	-418	13	12	12

(By fiscal year, in millions of dollars;)

	1987	1988	1989	1990	1991	1992
Function 900: Interest to the Treasury:						
Estimated authorization level			16	30	30	29
Estimated outlays			16	30	30	29
Total authorizations:						
Estimated authorization level		-424	16	30	30	29
Estimated outlays		13	-402	43	42	41

Basis of estimate: For purposes of this estimate, CBO assumes that this bill will be enacted by August 1, 1987.

H.R. 2166 would eliminate all financing by the FFB of debentures issued by small business development companies and guaranteed by SBA through 1988. A pilot program established by the Consolidated Omnibus Budget Reconciliation Act of 1985 authorized sales to private investors for a portion of these debentures, even though the Federal Financing Bank Act requires that debentures with 100 percent guarantees be sold to the FFB.

Fiscal year 1987 appropriations authorized SBA to guarantee up to \$373 million for loans provided to small business development companies. Of this amount, CBO expected that SBA would finance \$295 million of debentures, or the maximum level authorized by the pilot program, through the private market. We assumed that SBA would guarantee \$35 million of debentures through its regular guarantees program, and the remainder of the debentures, or \$43 million, would be sold to the FFB. Because the bill would increase the pilot program ceiling in 1987, and because demand for this program remains strong, it is expected that if H.R. 2166 were enacted, SBA would finance the remaining \$43 million of debentures through sales to the public. This would reduce SBA's authority to borrow from the FFB by \$43 million in 1987, and would result in a net outlay reduction, including lost principal and interest payments, of \$41 million in 1988. Relative to current law, estimated outlays would increase by about \$4 million in each fiscal year beginning in 1989. These are direct spending effects, and do not require any additional legislative action.

The legislation would also allow SBA to sell to the public up to \$425 million of small business development company debentures in 1988. Unlike the 1987 sales, these would be dependent on the amount of guarantee authority provided in the 1988 appropriation bill. Assuming that the entire amount authorized is appropriated in 1988, and that \$25 million of the \$450 total guarantee program level authorized for 1988 is used for making traditional SBA guarantees, SBA would reduce its borrowing from the FFB by \$425 million in 1988 by selling to the public. Relative to current law, net outlays would be reduced by \$404 million in 1989, but because of the loss of repayments, would increase by an estimated \$41 million in each year beyond 1988.

H.R. 2166 would also increase the 1988 guarantee authority for SBA's surety bonds from \$1.142 billion to \$1.250 billion. Based on estimated defaults, it is expected that SBA would require an additional appropriation of \$1.3 million in 1988 if the guarantee ceiling

is increased to this level. Including surety bond guarantee fees, net outlays are estimated to be —\$0.1 million in 1988, and \$0.7 million in each of the fiscal years 1989 and 1990.

The bill would reduce the funding authorized to be appropriated for business loans in 1988 by \$16 million, but increase by the same amount the 1988 funding for the pollution control guarantee program. While this change would have no net effect on 1988 budget authority, outlays for claims in the pollution control program would increase by an estimated \$12.8 million in 1988, and by \$1.6 million in each of the fiscal years 1989 and 1990. There would be no reduction in spending for business loans because the loan levels have not been changed in the authorization bill.

6. Financing mechanism: By eliminating the need for FFB financing of SBA small business development company debentures in 1987, H.R. 2166 would reduce SBA's fiscal year 1987 authority to borrow by an estimated \$43 million. Spending for SBA programs in 1988 is subject to appropriation action.

7. Estimated cost to State and local governments: None.

8. Estimated comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Mary Maginniss.

11. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

No oversight findings or recommendations have been made by the Committee on Government Operations with respect to the subject matter contained in H.R. 2166.

In compliance with clause 2(1)(4), the Committee concludes that the provisions of this legislation in and of themselves will have no inflationary impact on prices and costs in the operation of the national economy.

In compliance with clause 7, rule XIII of the House of Representatives, the Committee makes the following statement:

The cost estimate and comparison prepared by the Director of the Congressional Budget Office has been included above. Accordingly, it is not necessary for the Committee on Small Business to include an estimate of the costs of carrying out this bill in this fiscal year and the five subsequent fiscal years.

No cost estimate was submitted by any Government agency on H.R. 2166 to your Committee.

In your Committee's opinion, the above statements fully comply with the Rules of the House of Representatives.

SECTION-BY-SECTION ANALYSIS

Section 1. Subsection (a) amends section 20(y)(4) of the Small Business Act by increasing the authorized program level of the surety bond guarantees program for 1988 from \$1,142 million to \$1,250 million.

Subsection (b) amends subsection (z) of section 20 of the Small Business Act by reducing the budget authority for the business loan and investment fund revolving account from \$409 million to \$393 million.

Subsection (c) authorizes the appropriation for fiscal year 1988 of \$16 million to pay claims under guarantees issued under the pollution control contract guarantees program.

Section 2. Subsection (a) is a technical amendment.

Subsection (b) amends section 504 of the Small Business Investment Act of 1958 by increasing the amount of debentures issued by development companies and sold to private investors from \$295 million to \$425 million (since no change is made in the existing ceiling of \$450 million in overall sales, this is not an increase in sales but rather a shift from the FFB to private investors).

Subsection (c) provides that for fiscal year 1988 up to \$425 million in debentures issued by certified development companies may be sold to private investors (since no change is being made in the existing ceiling of \$450 million in overall sales, this is not an increase in sales but rather a shift from the FFB to private investors).

CHANGE IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 20 OF THE SMALL BUSINESS ACT

SEC. 20. (a) * * *

* * * * *

(y) The following program levels are authorized for fiscal year 1988—

(1) * * *

* * * * *

(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed **[\$1,142,000,000]**; *\$1,250,000,000*; and

* * * * *

(z) There are authorized to be appropriated to the Administration for fiscal year 1988, \$634,000,000. Of such sum, **[\$409,000,000]** *\$393,000,000* shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (y); \$13,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; *\$16,000,000 shall be available to carry out the provisions of sections 404 and 405 of the Small Business Investment Act of 1958*; and \$212,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disas-

ter loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

SECTION 504 OF THE SMALL BUSINESS INVESTMENT ACT OF 1958

SEC. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall conduct a pilot program involving the sale to investors, either publicly or by private placement, of debentures guaranteed pursuant to section 503 of the Small Business Investment Act of 1958 as follows—

(1) of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed \$200,000,000; **[and]**

(2) of the program levels otherwise authorized by law for fiscal year 1987, an amount not to exceed **[\$295,000,000.]** \$425,000,000; and

(3) of the program levels otherwise authorized by law for fiscal year 1988, an amount not to exceed \$425,000,000.

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